

REMARKS

Claims 3 and 11 have been cancelled. Claim 1 has been amended to incorporate the limitations previously recited by claims 3 and 11. Claims 12, 14, 16, and 18 have been amended solely to change a dependency so that they each depend from claim 1. Claims 20-25 were previously withdrawn. Claim 26 has been added. Therefore, claims 1-2, 4-10, 12-19 and 26 remain pending. Reconsideration and withdrawal of all outstanding rejections are respectfully requested in light of the foregoing amendments and the following remarks.

Claims 1-3, 9, 11-12, 14-15 and 18-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,428,476 to Heikkila et al. ("Heikkila") in view of U.S. Patent No. 5,891,042 to Sham et al. ("Sham").

The present application relates to an exercise monitor that can identify a user's identity immediately after verifying that the user has just completed exercise. Thus, the claimed monitor does more than simply record exercise data as conventional exercise monitors did. Its identity verification function certifies not only that exercise was completed, but it certifies the identity of the exerciser. As explained in the application, the invention can be used in an insurance system to advantageously detect that the user wearing the device is the insured. The identity certification can be used to prevent a person other than the insured from padding the exercise record data. See p. 28, at lines 15-22.

Independent claim 1 recites an exercise monitor, comprising, *inter alia*, "identity check means for verifying said user's identity. . . wherein said verifying said user's identity is processed by said user in said exercise motion right after a predetermined length of time has passed; a wearing check means to verify that said monitor is actually being worn by said user; and recording means for recording an

output data of said motion sensor. . . as valid data only after said identity check means has verified said user's identity. . . and said wearing check means has verified that said monitor is actually being worn by said user.” In accordance with the claimed invention, the time of verifying the person’s identity and the time of detecting the person’s wearing the monitor are checked after no exercise is detected, and if the two time data are sufficiently close, then the monitor proceeds to record and evaluate the exercise as a proper and correct data. This proper and correct data can be used, for example, to discount the insurance fee because the policy holder is expected to be a healthy person.

The cited references, whether considered alone or in combination, do not render obvious the claimed invention as embodied by claim 1. Sham relates to a conventional pedometer device that provides an electronic walk-step counter and a heart beat counter. Sham teaches a motion sensor for detecting a walking motion and acceleration data. Heikkila relates to obtaining exercise performance data in a mathematical model to classify the user once the data is obtained. Neither cited reference teaches or suggests an exercise monitor having “recording means for recording an output data of said motion sensor. . . as valid data only after said identity check means has verified said user's identity. . . and said wearing check means has verified that said monitor is actually being worn by said user.”

For at least these reasons, claim 1 is allowable. Claims 2, 4-10, 12-19 and 26 depend from claim 1 and contain all of the limitations recited therein. For at least these reasons, claims 2, 4-10, 12-19 and 26 are also allowable. Withdrawal of the rejection is requested.

Claims 4-8 stand rejected under stand rejected under 35 U.S.C. 103(a) as being unpatentable over Heikkila in view of Sham and further in view of U.S. Patent Pub. No.

2002/0070954 to Lang ("Lang"). For whatever Lang teaches regarding asking a user to input answers, Lang does not cure the deficiencies of Heikkila and Sham as discussed above. For at least these reasons, withdrawal of the rejection is requested.

Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Heikkila in view of Sham and further in view of U.S. Patent Pub. No. 2001/0032098 to Kulkarni ("Kulkarni"). For whatever Kulkarni teaches regarding use of a fingerprint or voiceprint pattern, Kulkarni does not cure the deficiencies of Heikkila and Sham as discussed above. For at least these reasons, withdrawal of the rejection is requested.

Claims 16-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Heikkila in view of Sham and further in view of U.S. Patent No. 5,976,083 to Richardson et al. ("Richardson"). For whatever Richardson teaches regarding wearing a check means or synchronizing an exercise rhythm, Richardson does not cure the deficiencies of Heikkila and Sham as discussed above. For at least these reasons, withdrawal of the rejection is requested.

Claim 13 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Heikkila in view of Sham and further in view of U.S. Patent No. 5,078,134 to Heilman et al. ("Heilman"). For whatever Heilman teaches regarding wearing a motion monitor, Heilman does not cure the deficiencies of Heikkila and Sham as discussed above. For at least these reasons, withdrawal of the rejection is requested.

In view of the above, Applicants submit that each of the currently pending claims is in condition for immediate allowance. Favorable action on claims 1-2, 4-10, 12-19, and 26 is solicited.

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